SOFTWARE AGREEMENT

between

WESTERN ELECTRIC COMPANY, INCORPORATED

and

THE UNIVERSITY OF MANITOBA

Effective as of

February 1, 1975

(SC)
Software-Univ.–020173-060574–1, Alt.

SOFTWARE AGREEMENT

Effective as of February 1, 1975 ,
WESTERN ELECTRIC COMPANY, INCORPORATED, a New York corporation ("WESTERN"), having an office at 222 Broadway, New York, New York 10038, and THE UNIVERSITY OF MANITOBA

("LICENSEE"), having an office at

Winnipeg, Canada R3T 2N2,

agree as follows:

ARTICLE I

DEFINITIONS

1.01 Terms in this agreement (other than names of parties and Article headings) which are in capital letters shall have the meanings specified in the Definitions Appendix.

ARTICLE II

GRANTS OF RIGHTS TO USE LICENSED SOFTWARE

2.01 WESTERN grants royalty-free to LICENSEE, a personal, nontransferable and nonexclusive right to use the LICENSED SOFTWARE, solely for academic and educational purposes and solely at the following location of the LICENSEE:

Computer Science Department
Room 139 N.E.M.P. Building
University of Manitoba
Winnipeg, Manitoba, Canada

2.02 LICENSEE shall pay to WESTERN, upon execution of this agreement by LICENSEE, a service charge in the amount of One Hundred Fifty---------- United States dollars ($ 150.00-------) for the cost of furnishing the LICENSED SOFTWARE. Delivery of the LICENSED SOFTWARE to LICENSEE shall be within a reasonable time after payment of such service charge.

2.03 LICENSEE hereby assures WESTERN that it does not intend to and will not knowingly, without the prior written consent of the Office of Export Administration of the U.S. Department of Commerce, Washington, D.C. 20230, transmit directly or indirectly:

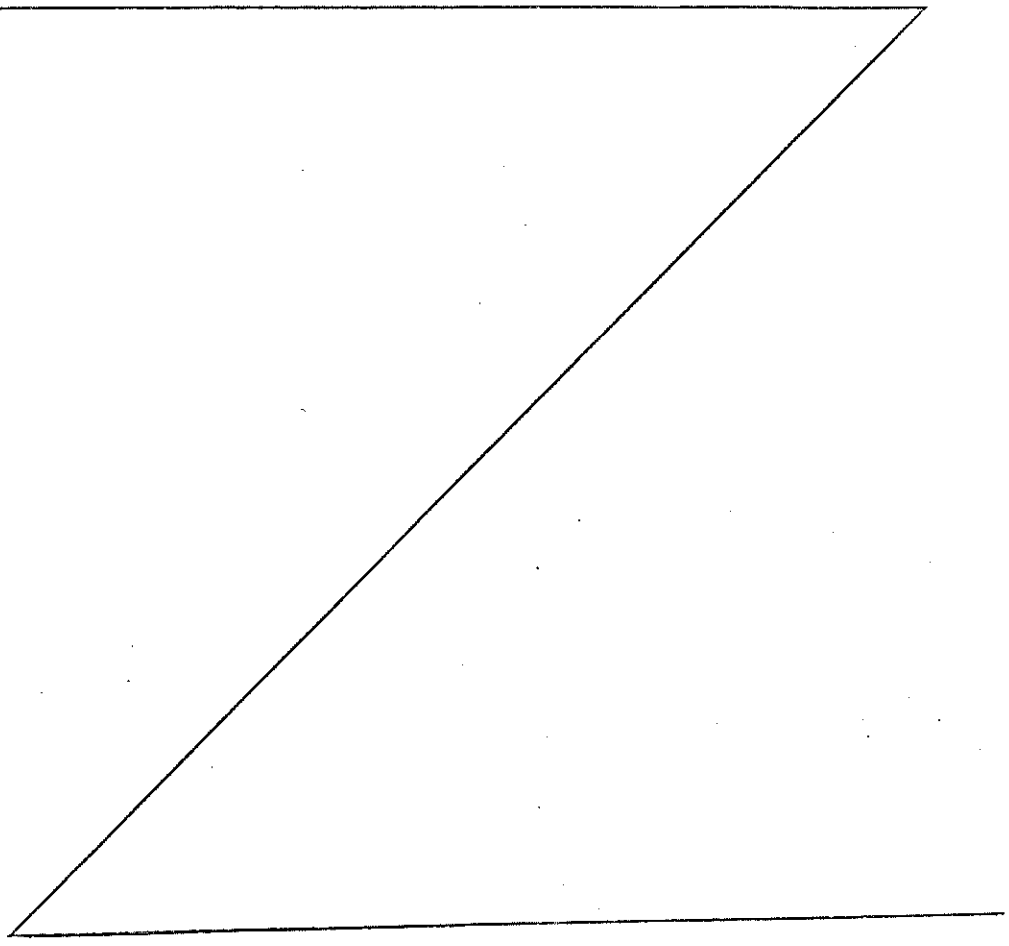
(i) any immediate product (including processes and services) produced directly by the use of the LICENSED SOFTWARE; or

(ii) any commodity produced by such immediate product if the immediate product of the LICENSED SOFTWARE is a plant capable of producing a commodity or is a major component of such plant;

to any Q, W, Y or Z country specified in Supplement No. 1 to Section 370 of the Export Administration Regulations issued by the U.S. Department of Commerce.

LICENSEE agrees to promptly inform WESTERN in writing of any such written consent issued by the Office of Export Administration.

LICENSEE hereby assures WESTERN that it will not transmit, directly or indirectly, the LICENSED SOFTWARE or any portion thereof, without the prior written consent of WESTERN, to any Q, W, Y or Z country.



ARTICLE III

TERMINATION

3.01 If LICENSEE shall fail to fulfill one or more of its obligations under this agreement, WESTERN may, upon its election and in addition to any other remedies that it may have, terminate the rights granted hereunder at any time; upon such termination LICENSEE shall within thirty (30) days deliver to WESTERN all documentation containing the LICENSED SOFTWARE, and shall render unusable all LICENSED SOFTWARE placed in any storage apparatus.

ARTICLE IV

MISCELLANEOUS PROVISIONS

4.01 Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent or trademark, whether or not the exercise of any right herein granted necessarily employs an invention of any existing or later issued patent.

4.02 This agreement shall prevail notwithstanding any conflicting terms or legends which may appear in the LICENSED SOFTWARE.

4.03 WESTERN and its ASSOCIATED COMPANIES make no representations or warranties, expressly or impliedly. By way of example but not of limitation, WESTERN and its ASSOCIATED COMPANIES make no representations or warranties of merchantability or fitness for any particular purpose, or that the use of the LICENSED SOFTWARE will not infringe any patent, copyright or trademark of any third person. WESTERN and its ASSOCIATED COMPANIES shall not be held to any liability with respect to any claim by LICENSEE or a third party on account of, or arising from, the use of such LICENSED SOFTWARE.

4.04 Neither the execution of this agreement nor anything in it or in the LICENSED SOFTWARE shall be construed as an obligation upon WESTERN or any of its ASSOCIATED COMPANIES to furnish any person, including the LICENSEE, any assistance of any kind whatsoever, or any information or documentation other than the LICENSED SOFTWARE.

4.05 LICENSEE agrees that it shall hold the LICENSED SOFTWARE in confidence for WESTERN and its ASSOCIATED COMPANIES. LICENSEE further agrees that it shall not make any disclosure of the LICENSED SOFTWARE or any portion thereof (including methods or concepts utilized therein) to anyone, except to employees or students of the LICENSEE to whom such disclosure is necessary to the use for which rights are granted hereunder. LICENSEE shall appropriately notify each employee and student to whom any such disclosure is made that such disclosure is made in confidence and shall be kept in confidence by him.

4.06 The obligation of the LICENSEE and of its employees and students under Section 4.05 shall survive and continue after any termination of rights under this agreement; however, such obligations shall not extend to any information or technical data relating to the LICENSED SOFTWARE which is now available to the general public or which later becomes available to the general public by acts not attributable to LICENSEE, its employees or students.

4.07 LICENSEE agrees that it will not make or have made, or permit to be made, any copies of the LICENSED SOFTWARE or portions thereof, except those copies which are necessary to the use, by the LICENSEE, for which rights are granted hereunder, that each such necessary copy shall contain the same proprietary notices or legends which appear on the LICENSED SOFTWARE or which are applicable to such portions thereof, and that no rights are granted under this agreement expressly or impliedly with respect to any copyrights except as provided for in this Section 4.07.

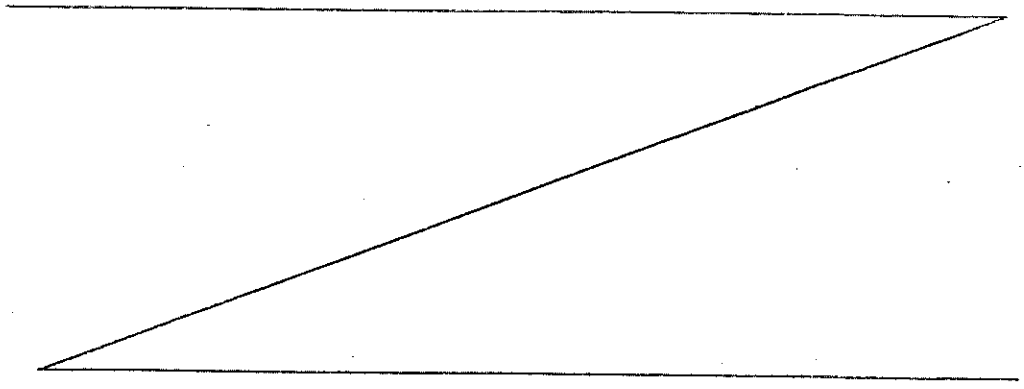
4.08 Neither this agreement nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable.

4.09 Nothing in this agreement grants to LICENSEE the right to sell, lease or otherwise transfer or dispose of the LICENSED SOFTWARE in whole or in part.

4.10 Any notice hereunder shall be deemed to be sufficiently given and any delivery hereunder deemed made when sent by registered mail addressed to the addressee at its office above specified or at such changed address as the addressee shall have specified by written notice.

4.11 This agreement sets forth the entire agreement and understanding between the parties as to the subject matter hereof and merges all prior discussions between them, and neither of the parties shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided herein, or in any prior existing written agreement between the parties, or as duly set forth on or subsequent to the effective date hereof in writing and signed by a proper and duly authorized representative of the party to be bound thereby.

4.12 The construction and performance of this agreement shall be governed by the law of the State of New York.



IN WITNESS WHEREOF, each of the parties has caused this agreement to be executed in duplicate originals by its duly authorized representatives on the respective dates entered below.

WESTERN ELECTRIC COMPANY, INCORPORATED

By .....
Director of Patent Licensing

Date .....

Attest:

[SEAL]

.....
Secretary

THE UNIVERSITY OF MANITOBA

By ....

Title ....

Date ....

Attest:

[SEAL]

.....
Secretary

DEFINITIONS APPENDIX

ASSOCIATED COMPANIES of WESTERN means SUBSIDIARIES of WESTERN, companies presently having WESTERN as a SUBSIDIARY and other SUBSIDIARIES of such companies and their SUBSIDIARIES. The term also means and includes Cincinnati Bell Inc., an Ohio corporation, and The Southern New England Telephone Company, a Connecticut corporation, and their SUBSIDIARIES.

SUBSIDIARY means a company the majority of whose stock entitled to vote for election of directors is now or hereafter controlled by the parent company either directly or indirectly, but any such company shall be deemed to be a SUBSIDIARY only so long as such control exists.

LICENSED SOFTWARE means the computer programs, or any portions thereof, and the associated documentation therefor, listed below:

UNIX time shared operating system computer program and supporting programs and documentation consisting of the following:

(a) a first reel of 9 track 800 bpi magnetic tape supplied by LICENSEE in required length on which the following will be recorded:

  (1) Binary object code of the UNIX core resident operating system;

  (2) Source program code;

  (3) User's manual.

(b) a second reel of 9 track 800 bpi magnetic tape supplied by LICENSEE in required length on which the binary object code of the supporting programs will be recorded.

(c) printed documentation:

  (1) UNIX programmer's manual;

  (2) Bell Telephone Laboratories, Inc. technical memorandum entitled NROFF User's Manual;

  (3) C reference manual;

  (4) UNIX assembler reference manual.